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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

IN RE:
ARETA J. WENTZ
1117 N. MAPLE STREET

EATON OH
45320-0000

: CASE NO: 07-34235
: (Chapter 13)
: JUDGE GUY R. HUMPHREY
:
:
:

**CHAPTER 13 TRUSTEE'S OBJECTION TO CONFIRMATION,
REQUEST FOR DENIAL OF CONFIRMATION**

The Chapter 13 Trustee recommends that the plan not be confirmed, all as more fully set forth in the attached memorandum. A plan has not been confirmed.

Hearing Date December 11, 2007 at 1:30 P.M.

[] West East Courtroom, 120 W Third Street, Dayton, OH

The confirmation hearing will be held as scheduled. At the hearing, confirmation may be granted or denied. The debtor and debtor's counsel are expected to attend the confirmation hearing.

CASE MEMO:

Case Commenced: September 27, 2007

Prior Case(s) no [] yes

Plan Filed: September 27, 2007

Debtor Single [] Married

Monthly Plan Payment: \$1,300.00

Size of Household 1 persons

Step Plan [] yes

Gross Income (Month) \$3,559.00

Plan Length 36.00 (months)

Sch. J Expenses \$2,159.00

Unsecured Percent 8 %

(Less rent/mortgage, domestic support, taxes)

Mortgages(s) yes [] no

Who Disburses Mortgage(s) [] Trustee [] Debtor [] Both

Other: TREATING BOTH MORTGAGES UNSECURED DUE TO IRREGULARITIES IN MORTGAGES.

MEMORANDUM

CHAPTER 13 TRUSTEE'S NOTED DEFICIENCIES in PLAN and/or CASE AND GROUNDS FOR OBJECTION TO CONFIRMATION

The Plan does not comply with:

- 11 U.S.C. § 1322(d) - Plan calculation exceeds 5 years

Reason: _____

- 11 U.S.C. § 1325(b)(1)(B) (See: Schedules I and J)

Totality of budget

Deductions for pension plan loan (See: *In re Harshbarger*, 66 F.3d 775 (6th Cir.1995))

The debtor has failed to submit all projected disposable income to be received in the three year period beginning on the date that the first payment is due under the plan [11 U.S.C. § 1325(b)], to wit: 401(k) deduction.

Projected income from _____

is not submitted to the plan (See: *In re Freeman*, 86 F.3d 478 (6th Cir. 1996);

In re Koch 109 F.3d 1285 (8th Cir. 1997); *In re Claude*, 206 B.R. 374 (Bkrtcy.W.D.Pa 1997))

The debtor has failed to submit all projected disposable income to be received in the three year period beginning on the date that the first payment is due under the plan [11 U.S.C. § 1325(b)], to wit: _____

11 U.S.C. § 1325(a)(4)

11 U.S.C. § 1322(a)(2) as to taxes X other

11 U.S.C. § 1322(a)(3) - Discriminates with respect to _____

11 U.S.C. § 1322(b)(1) - Discriminates with respect to _____

11 U.S.C. § 1325(a)(6) - (Plan speculative - No evidence of ability to make all payments under the plan)

11 U.S.C. § 1325(a)(6) - Debtor has failed to file federal tax returns for tax years _____ thus placing the plan's feasibility into question.

11 U.S.C. § 1325(a)(3) - Plan not proposed in good faith

The Plan

- provides for payment on more than one vehicle per working debtor
- proposes debtor disburse of mortgage with trustee disburse of arrearage
- Fails to designate time and/or details for sale of real estate

See: *In re Hogue* 78 B.R. 867 (Bkcy.S.D.OhioE.D. 1987);

In re Erickson, 176 B.R. 753 (Bkcy.E.D.Pa 1995)

- No appraisal of real estate (LBR 3015-3(e)(3))

- Other:

THE TRUSTEE CANNOT DETERMINE BEST INTEREST WITHOUT AN APPRAISAL.
IF THE MORTGAGES ARE TRULY UNSECURED AS PROPOSED BY THE DEBTOR THEN
THE DEBTOR MUST PAY AT LEAST \$40,000 TO UNSECURED CREDITORS. DEBTOR
ALSO NEEDS TO FILE AMENDED MEANS TEST FORM B22C AND SCHEDULES I AND J
TO FULLY DISCLOSE ALL HOUSEHOLD MEMBERS AND ALL INCOME-THE MEANS TEST
SHOWS FIVE PEOPLE IN THE HOUSEHOLD, YET SCHEDULE I ONLY SHOWS ONE
PERSON-DAUGHTER WAS PAYING THE MORTGAGE AND IS ON DISABILITY BUT
CONTRIBUTES TO THE HOUSEHOLD. ALL INFORMATION IS INACCURATE SO THE
TRUSTEE CANNOT DETERMINE IF MEANS TEST IS MET. THE PLAN IS NOT
PROPOSED IN GOOD FAITH.

/s/ Jeffrey M. Kellner
Jeffrey M. Kellner 0022205
Chapter 13 Trustee
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(937) 222-7600 Fax (937)222-7383
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Certificate of Service

07-34235

I hereby certify that a copy of the attached was served by electronic service or was mailed by first class mail to each of the following on the date of the electronic filing.

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COLUMBUS OH

43215-0000

Jeffrey M. Kellner BY _/s/ Jeffrey M. Kellner_

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